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CENTRAL FAX CENTER
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APPLICATION 10/506,800

UNITED STATES PATENT
AND TRADEMARK OFFICE
JOHN RICCI
PRIMARY EXAMINER

This letter is in regard to your communication dated May 27, 2009 , in which you provide to the applicant thirty days or three months , whichever be longer , to reply in regard to observations related to US patent application publication 2003/0064658 , and patents 1,543,954 , 1,899,892 , 2,364,943 , 2,669,062 , 3,620,774 , 5,893,790 , 6,258,424 and 7,476,141 , particularly the third one called D'Este et al , deemed to anticipate the process , on how the product for which the patent is seek , can be elaborated

As acknowledged on the communication , by traverse done on February 27,2009 , even though it is said that there is not fully coherent English , and certain confusion is made , it has to be understood that there should be others manners to manufacture the product , that is here intended to patent , thus , is not pursued for granting the method on how it is made , but the final product

Then , on the contrary as stated on the communication , it is not the overlapping , either , it self , that it is being asked to patent , because it is not the process , neither the device , with which it is made , but the final toy that it is obtained , that is supposed to be patented , therefore , it is useless to affirm that the product can only be made the way how it is shown , and that it is developed by the applicant , because such was given up on the aforementioned traverse .

Having cleared that it is only the final product that it is desired to obtain the national patent , and not the manner and objects with which it is obtained , and in order to describe it on the required form , as described on 35 USC 112 , second paragraph , even though it is said on the communication that it has to be in a single paragraph , it has to be said that :

The object of the invention is a toy that it is a balloon that has the shape of a rocket , or a pencil , as children call it , that means cylindrical body , with a flexible conical tip point ,on one side . and open on the opposite side ,on a single piece , without additions , attachments or fixtures , made of polymer film , of about 35 or 40 microns , that it makes it definitely light , preferably metalized , to give it a shiny or mirror aspect , and easily blown or filled up , mainly with air out of the users mouth by the open end , and twisted on it self until stucked , clogged or adhered to it self , that can be bounced against the floor , or any surface , producing a particular sound due to the compact twisted tight , by anyone playing with it , or beaten on the bottom made out on the twisted side , particularly with the open hand , to launch it , or spin it , as well , to glide on the air , and remain suspended on it , for a little while , enough to motivate kids to want to play with it , and repeat the described manner of playing with for a considerable period of time , and then untwisted , folded and used again later plus that it can be repaired easily by tapping the leaks or holes that happen on the course of playing , due to slim of the film used to manufacture the balloon

Therefore neither of the mentioned above patents fit to the description of this novelty , besides that the process of having it made is not pursued to be patent , particularly D'Este et al. , of which only the overlapping is

observed by this examiner , that builds the confusion about , if it is the process of having it manufactured , that it is asked to patent .

Furthermore , the comparison made of the different patents mentioned on the top , particularly the application publication of Yu Zheng are not alike , set to be just a prototype , they just show that imagination is so fertile .

Have to be seen the imprecise generalities and support on the existing cartoons , just to draw figures , without any description on its use , neither on the way how it is made , and above all , the lack of experience that show on his pretensions , since does not only does not say how to throw the rocket , but how it fly's , and that if hit on the ground when landing would be damaged .The fact of the lightness on the Flavio Valerio's , that is not even mentioned at Zheng's , makes it different and advanced to the ideal prototype , that in fact is a simple rocket , of which there are many on comics . Moreover , Zheng's does not said how to inflate the rocket , being that Flavio's only needs the desire , of the one that wants to play it , to blow it , with his own mouth and twist it until hold by it self , just knowing how to keep on twisting and wrapping it with the same twist until retained it self . On the other hand Zheng's talks of two ends on his apparatus , and a nozzle , that it does not needs the Flavio's and filling the Zheng's with liquid , would make the device very heavy , which it shows that Zheng's underestimate how hurtful , might be , his apparatus , if after using great force to launch his ideal , then could come back and heavily hit someone , which it has never happened with Flavio's .

Then , the J.W.SHIRA , does not has a full twist , as Flavio's does , but a simple folding , that it does no develop into any self-wrapping , neither has the properties of Flavio's to be launchable , to glide and bounce and get suspended on the air , by it self , for a moment .

And even the D'Este et al , becomes useless to mention it , since the traverse on February 27 , about not pretending to patent the device and the manner in which Flavio's rocketlloons are made , was accepted , and never pursued again by this applicant .

There we have the F.L.Brant , that is just a filter , that is not intended as a toy , neither meant to fly , or the container of Andrew George Ford and others , that it is never mentioned to fly , but a pressure container .

Even , the amazing and meritorious Mylar toy of Montgomery has noting to do with shape of Flavio's rocket , neither the reason of weights and counterbalances , because this toy fly by it self , and Flavio's has to be thrown , and Montgomery's is an equilibrated , well known round Mylar balloon ,that just is put horizontally floating thanks to the helium inserted thru a valve , that is not necessary for the rocketlloon . Or the packaging method of Wolfgang Oswald that is only cited by this examiner , because of its overlapping , that is not claimed by the applicant of the rocketlloon .

Finally , the Saber of Young Jesse Hom , that is not intended to fly , but similes a weapon , with light inside , and on neither of them can be seen the likeness neither the same purpose , therefore there is not any anticipation to Flavio's invention , al least , because nobody describes the playful , and simple way of using Flavio's invention , they are simple matters of another invention .

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